OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

February 7, 1939

Hon. E. H. Griffin
County Attorney
Young County
Graham, Texas

Dear Sir:

Opinion No. O-200
Re: Authority of Commissioners' Court
to employ outside attorney in
criminal cases.

Your letter of January 23rd has been received
by this Department wherein you seek an opinion as to whe-
ther or not the Commissioners' Court can legally appro-
priate money for employing an outside attorney to assist
in prosecuting a criminal case.

Permit us to call your attention to Article 25
of the Code of Criminal Procedure, State of Texas, Revised
of 1925, which article reads:

"Each district attorney shall represent
the State in all criminal cases in the district
courts of his district, except in cases where
he has been, before his election, employed ad-
versely. When any criminal proceeding is had
before an examining court in his district or
before a judge upon habeas corpus, and he is
notified of the same, and is at the time within
the county where such proceeding is had, he
shall represent the State therein, unless pre-
vented by other official duties."

The Commissioners' Court can exercise only such
powers as the Constitution or the Legislature specifically

confers upon them, Constitution, Article 5, Sec. 18; Landman
vs. State (Court of Civil Appeals) 97 SW (2d) 264-writ of
error refused; Bland vs. Orr, 90 Tex. 492, 39 SW 558; Mills
vs. Lampasas County, 90 Tex. 903, 40 SW 403.

We respectfully advise that we are unable to
find any authority which would permit the Commissioners'
Court to appropriate money in hiring an outside attorney
to assist the District Attorney in the performance of such
duties and it is, therefore, the opinion of this Department
that such action on the part of the Commissioners' Court
would not be authorized.

Very truly yours

ATTORNEY GENERAL OF TEXAS
(signed)
Wm. J. R. King

By

Assistant

WmK:AW

APPROVED:
(Signed)
Gerald C. Mann

ATTORNEY GENERAL OF TEXAS